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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,491	11/24/2003	Philip Lee Childs	RPS920030191US1	4559

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EXAMINER	
TRUONG, CAM Y T	
ART UNIT	**PAPER NUMBER**
2162	

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/720,491	CHILDS ET AL.	
	Examiner	Art Unit	
	Cam Y.T. Truong	2162	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-19 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-19 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 11/24/03.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-19 are pending in this Office Action.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 7, 13-14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Midgley et al (or hereinafter "Midgley") (US 6625623) in view of Maffezzoni (US 6385707).

As to claims 1 and 7, Midgley teaches a method for restoring previously un-backed up data during a system restore (col. 2, lines 15-30):

"storing backup files in a locked partition of a storage device" as storing backup files in a backup server. These files are not in a locked partition of the backup server. The backup server is represented as a storage device (col. 2, lines 30-35);

"starting restoration of said system" as restore a version of a target data file (col. 6, lines 25-30);

"reading other partitions of said storage device to determine which files have been modified since most recent backup operation" as monitoring file access operations to record byte level modifications to sources data files (col. 2, lines 20-30);

"copying uncorrupted modified files" as monitoring and capturing changes to the source data files, recording the changes to each journal file and transferring or copying the journal files to the backup server so that the captured changes are written to the appropriates ones of the target data files. The source data files are represented as the source data files (col. 2, lines 15-30);

"replacing backup files in said locked partition of said storage device that have been modified since most recent backup operation with said uncorrupted modified files" as monitoring and capturing changes to the source data files, recording the changes to each journal file and transferring or copying the journal files to the backup server so that the captured changes are written to the appropriates ones of the target data files (col. 2, lines 15-30).

Midgley does not explicitly teach the claimed limitations "a locked partition of said storage device; running a virus scan on files determined to be modified; uncorrupting modified files containing a virus that can be uncorrupted".

Maffezzoni teaches the claimed limitations:

"a locked partition of said storage device" as copying locked system files from a first drive of a computer system to a second drive (col.3, lines 20-23);

"running a virus scan on files determined to be modified" as the backup restore engine is also charged with performing virus checking on all files before the copying is performed. In this manner, any detected viruses are disinfected prior to performing any copying operations. The above information means running a virus scan on all files (col. 12, lines 39-43);

"uncorrupting modified files containing a virus that can be uncorrupted" as during the initial backup to the peripheral storage device, the data is first passed through an anti-virus module 330 to prevent copying of infected items. Once the virus scan has been completed, the information is verified before being transferred to the peripheral storage device media. The above information shows that the files contains virus, however, they are not corrupted (col. 17, lines 12-17).

It would have been obvious to a person of an ordinary skill in the art at the time the invention was made to apply Maffezzoni's teaching of copying locked system files from a first drive of a computer system to a second drive; performing virus checking on all files before the copying is performed; during the initial backup to the peripheral storage device, the data is first passed through an anti-virus module 330 to prevent copying of infected items to Midgley's system in order to prevent copying of infected files and prevent their access to protect the user from inadvertent deletion or alteration of files.

As to claims 2 and 8, Midgley teaches "restoring files of said system with said backup files stored in said locked partition of said storage device" as restoring versions of target source files that are not stored in said locked partition of a backup server (col. 18, lines 49-50).

Midgley does not explicitly teach the claimed limitation "in said locked partition of said storage device".

Maffezzoni teaches "a locked partition of said storage device" as copying locked system files from a first drive of a computer system to a second drive (col.3, lines 20-23);

It would have been obvious to a person of an ordinary skill in the art at the time the invention was made to apply Maffezzoni's teaching of copying locked system files from a first drive of a computer system to a second drive to Midgley's system in order to prevent their access to protect the user from inadvertent deletion or alteration of files.

As to claim 13 are rejected the same reasons as discussed in claims 1 and 19.

As to claim 14, Midgley teaches the claimed limitation "circuitry operable for restoring files of said system with said backup files stored in said locked partition of said storage device" as restoring versions of target source files that are not stored in said locked partition of a backup server (col. 18, lines 49-50).

Midgley does not explicitly teach the claimed limitation "in said locked partition of said storage device".

Maffezzoni teaches "a locked partition of said storage device" as copying locked system files from a first drive of a computer system to a second drive (col.3, lines 20-23);

It would have been obvious to a person of an ordinary skill in the art at the time the invention was made to apply Maffezzoni's teaching of copying locked system files

from a first drive of a computer system to a second drive to Midgley's system in order to prevent their access to protect the user from inadvertent deletion or alteration of files.

As to claim 19, Midgley teaches the claimed limitations:

"a first computing system comprising: a processor; a first operating system running on said processor;" as a server run on a windows NT or UNIX operating system. The above information indicates that the server has included a processor (col. 8, lines 15-25); and

"a memory unit coupled to said processor" as a server, which has a memory, runs on a windows NT or UNIX operating system. The above information indicates that the server has included a processor coupled to the processor (col. 8, lines 15-25; col. 8, lines50-60),

"wherein said memory unit is operable for storing a computer program for restoring previously un-backed up data during a system restore" as restoring a version of a target data file in a backup server. The above information shows that the system has included a memory unit is operable for storing a program to restore a version of a file (col. 6, lines 28-30; col. 2, lines 32-35); and

"a storage medium coupled to said first computing system" as backup server includes a cache memory system and backup files (col. 8, lines 50-60; col. 2, lines 32-35),

" wherein said storage medium comprises a locked partition configured to store a second operating system and backup files" as backup system store backup files. This

backup system does not comprises a locked partition (col. 2, lines 32-35; col. 8, lines 40-50) ; and

"wherein said processor, responsive to said computer program, comprises: circuitry operable for starting restoration of said system; circuitry operable for reading other partitions of said storage device to determine which files have been modified since most recent backup operation" as monitoring and capturing changes to the source data files, recording the changes to each journal file and transferring or copying the journal files to the backup server so that the captured changes are written to the appropriates ones of the target data files (col. 2, lines 15-30);

"circuitry operable for copying uncorrupted modified files" as monitoring and capturing changes to the source data files, recording the changes to each journal file and transferring or copying the journal files to the backup server so that the captured changes are written to the appropriates ones of the target data files. The source data files are represented as the source data files (col. 2, lines 15-30);

"circuitry operable for replacing backup files in said locked partition of said storage device that have modified since most recent backup operation with said uncorrupted modified files" as monitoring and capturing changes to the source data files, recording the changes to each journal file and transferring or copying the journal files to the backup server so that the captured changes are written to the appropriates ones of the target data files (col. 2, lines 15-30).

Midgley does not explicitly teach the claimed limitation "a locked partition; circuitry operable for running a virus scan on files determined to be modified; circuitry operable for uncorrupting modified files containing a virus that can be uncorrupted";

Maffezzoni teaches copying locked system files from a first drive of a computer system to a second drive (col.3, lines 20-23); the backup restore engine is also charged with performing virus checking on all files before the copying is performed. In this manner, any detected viruses are disinfected prior to performing any copying operations. The above information means running a virus scan on all files (col. 12, lines 39-43). During the initial backup to the peripheral storage device, the data is first passed through an anti-virus module 330 to prevent copying of infected items. Once the virus scan has been completed, the information is verified before being transferred to the peripheral storage device media. The above information shows that the files contains virus, however, they are not corrupted (col. 17, lines 12-17).

It would have been obvious to a person of an ordinary skill in the art at the time the invention was made to apply Maffezzoni's teaching of copying locked system files from a first drive of a computer system to a second drive; performing virus checking on all files before the copying is performed; during the initial backup to the peripheral storage device, the data is first passed through an anti-virus module 330 to prevent copying of infected items to Midgley's system in order to prevent copying of infected files and prevent their access to protect the user from inadvertent deletion or alteration of files.

4. Claims 3, 9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Midgley et al (or hereinafter "Midgley") (US 6625623) in view of Maffezzoni (US 6385707) and further in view of Bucher (US 2005/0055559).

As to claims 3 and 9, Midgley does not explicitly teach the claimed limitation " destroying modified files containing a virus that cannot be uncorrupted".

Bucher teaches in the event of the detection of a virus, the scrubber module 280 is configured to delete the data that has been corrupted within the storage device of the corresponding computer 220, 225, or 230, which can be as much as all of the data in the storage device, including software and content (e.g., data files [redacted] documents, etc.). Deleting the data in this manner has the dual effect of eliminating the corrupted data and eliminating any copy of the virus in the storage device, thereby preventing further propagation of the virus in the network (paragraph [0035], lines 1-8).

It would have been obvious to a person of an ordinary skill in the art at the time the invention was made to apply Bucher's teaching of deleting files that contain virus to Midgley's system in order to eliminate the corrupted data and eliminating any copy of the virus in the storage device, thereby preventing further propagation of the virus in the network.

As to claim 15, Midgley does not explicitly teach the claimed limitation "circuitry operable for destroying modified files containing a virus that cannot be uncorrupted".

Bucher teaches in the event of the detection of a virus, the scrubber module 280 is configured to delete the data that has been corrupted within the storage device of the corresponding computer 220, 225, or 230, which can be as much as all of the data in the storage device, including software and content (e.g., data files documents, etc.). Deleting the data in this manner has the dual effect of eliminating the corrupted data and eliminating any copy of the virus in the storage device, thereby preventing further propagation of the virus in the network (paragraph [0035], lines 1-8).

It would have been obvious to a person of an ordinary skill in the art at the time the invention was made to apply Bucher's teaching of deleting files that contain virus to Midgley's system in order to eliminate the corrupted data and eliminating any copy of the virus in the storage device, thereby preventing further propagation of the virus in the network.

5. Claims 4, 5, 10, 11, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Midgley et al (or hereinafter "Midgley") (US 6625623) in view of Maffezzoni (US 6385707) and further in view of Pak et al (or hereinafter "Pak") (US 2003/0033536).

As to claims 4 and 10, Midgley does not explicitly teach the claimed limitation "downloading an updated virus template into said locked partition of said storage device if a virus template needed to be updated".

Pak teaches the computer virus data files must be periodically updated with new

computer virus definitions and code to enable the anti-virus engine 17 to continue to provide up-to-date anti-virus protection. Thus, the server 11 includes an anti-virus (AV) compiler 16 that executes an updating service. The client 12 can connect to the server 11 and download updated external virus definition files from the anti-virus compiler 16 for subsequent incorporation into a structured virus database (paragraph [0064]).

It would have been obvious to a person of an ordinary skill in the art at the time the invention was made to apply Pak's teaching of downloading updated external virus definition files to Midgley's system in order to provide a flexible and extensible anti-virus solution and further detect new virus for protecting files.

As to claims 5 and 11, Midgley teaches the claimed limitation "copying modified files with no detected viruses" as monitoring and capturing changes to the source data files, recording the changes to each journal file and transferring or copying the journal files to the backup server so that the captured changes are written to the appropriates ones of the target data files. The source data files are represented as the source data files (col. 2, lines 15-30);

"copying modified files" as (col. 2, lines 15-30).

Midgley does not explicitly teach the claimed limitation " with a detected virus but cleaned by said virus scan".

Pak teaches the anti-virus engine 17 scans and cleans files and attachments stored in the client storage 15 (paragraph [0066], lines 9-10).

It would have been obvious to a person of an ordinary skill in the art at the time the invention was made to apply Pak's teaching of the anti-virus engine 17 scans and cleans files and attachments stored in the client storage to Midgley's system in order to protect files for future processing.

As to claim 16, Midgley does not explicitly teach the claimed limitation "circuitry operable for downloading an updated virus template into said locked partition of said storage device if a virus template needed to be updated".

Pak teaches the computer virus data files must be periodically updated with new computer virus definitions and code to enable the anti-virus engine 17 to continue to provide up-to-date anti-virus protection. Thus, the server 11 includes an anti-virus (AV) compiler 16 that executes an updating service. The client 12 can connect to the server 11 and download updated external virus definition files from the anti-virus compiler 16 for subsequent incorporation into a structured virus database (paragraph [0064]).

It would have been obvious to a person of an ordinary skill in the art at the time the invention was made to apply Pak's teaching of downloading updated external virus definition files to Midgley's system in order to provide a flexible and extensible anti-virus solution and further detect new virus for protecting files.

As to claim 17, Midgley teaches the claimed limitation circuitry operable for copying modified files with no detected viruses" as monitoring and capturing changes to the source data files, recording the changes to each journal file and transferring or

copying the journal files to the backup server so that the captured changes are written to the appropriates ones of the target data files. The source data files are represented as the source data files (col. 2, lines 15-30);

"circuitry operable for copying modified files" as (col. 2, lines 15-30).

Midgley does not explicitly teach the claimed limitation " with a detected virus but cleaned by said virus scan".

Pak teaches the anti-virus engine 17 scans and cleans files and attachments stored in the client storage 15 (paragraph [0066], lines 9-10).

It would have been obvious to a person of an ordinary skill in the art at the time the invention was made to apply Pak's teaching of the anti-virus engine 17 scans and cleans files and attachments stored in the client storage to Midgley's system in order to protect files for future processing.

6. Claims 6, 12 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Midgley et al (or hereinafter "Midgley") (US 6625623) in view of Maffezzoni (US 6385707) and further in view of Pak et al (or hereinafter "Pak") (US 2003/0033536) and Bucher.

As to claims 6 and 12, Midgley does not explicitly teach the claimed limitations: "running said virus scan on files to be backed up prior to storing said backup files in said locked partition of said storage device; and uncorrupting said files to be backed up containing a virus that can be uncorrupted prior to storing said backup files in said locked partition of said storage device; wherein said backup files that are stored in said

locked partition of said storage device are said files to be backed up with no detected virus and said files to be backed up with a detected virus but cleaned by said virus scan".

However, Midgley teaches storing files in backup server with no detected virus (col. 2, lines 32-35).

Maffezzoni teaches copying locked system files from a first drive of a computer system to a second drive (col.3, lines 20-23).

Pak teaches the anti-virus engine 17 scans and cleans files and attachments stored in the client storage 15 (paragraph [0066], lines 9-10).

Bucher teaches a copy of data is sent to a network appliance, which analyzes whether it contains a virus (paragraph [0009]).

It would have been obvious to a person of an ordinary skill in the art at the time the invention was made to apply Maffezzoni's teaching copying locked system files from a first drive of a computer system to a second drive, Pak's teaching the anti-virus engine 17 scans and cleans files and attachments stored in the client storage and Bucher's teaching of a copy of data is sent to a network appliance which analyzes whether it contains a virus to Midgley's system in order to eliminate the corrupted data and eliminating any copy of the virus in the storage device, thereby preventing further propagation of the virus in the network and further to prevent copying of infected files and prevent their access to protect the user from inadvertent deletion or alteration of files.

As to claim 18, Midgley does not explicitly teach the claimed limitation "circuitry operable for running said virus scan on files to be backed up prior to storing said backup files in said locked partition of said storage device; and circuitry operable for uncorrupting said files to be backed up containing a virus that can be uncorrupted prior to storing said backup files in said locked partition of said storage device; wherein said backup files that are stored in said locked partition of said storage device are said files to be backed up with no detected virus and said files to be backed up with a detected virus but cleaned by said virus scan".

However, Midgley teaches storing files in backup server with no detected virus (col. 2, lines 32-35).

Maffezzoni teaches copying locked system files from a first drive of a computer system to a second drive (col.3, lines 20-23).

Pak teaches the anti-virus engine 17 scans and cleans files and attachments stored in the client storage 15 (paragraph [0066], lines 9-10).

Bucher teaches a copy of data is sent to a network appliance, which analyzes whether it contains a virus (paragraph [0009]).

It would have been obvious to a person of an ordinary skill in the art at the time the invention was made to apply Maffezzoni's teaching copying locked system files from a first drive of a computer system to a second drive, Pak's teaching the anti-virus engine 17 scans and cleans files and attachments stored in the client storage and Bucher's teaching of a copy of data is sent to a network appliance which analyzes whether it contains a virus to Midgley's system in order to eliminate the corrupted data and

eliminating any copy of the virus in the storage device, thereby preventing further propagation of the virus in the network and further to prevent copying of infected files and prevent their access to protect the user from inadvertent deletion or alteration of files.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Becker et al (US 2004/0139128).

Contact Information

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cam Y T. Truong whose telephone number is (571) 272-4042. The examiner can normally be reached on Monday to Firday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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